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ABSTRACT

This paper provides an overview of the development of the school-personnel administrator role. It first describes the influence of the science-management and human-relations movements and the behavioral sciences on personnel administration and human resource management. It next discusses the role of the personnel-performance-appraisal system and identifies four types of evaluations: summative, formative, norm-referenced, and criterion-referenced. The last part describes the factors involved in compensation administration and lists teacher benefits offered by most districts across the United States. (Contains seven references.) (LMI)

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The School Personnel Administrator

Prior to 1900, employers assumed responsibility for personnel matters in the business and industrial sectors, in most cases delegating some of this function to front-line supervisors or foremen. The "line boss" generally took charge of such personnel activities as hiring, rating, on-the-job training, and firing. During the later part of the nineteenth century, various forms of personnel departments began to emerge in business and industry. Such duties as record keeping, preparing salary schedules and rating reports, and other clerical task were assigned to one individual (McCoy, Gips, & Evans, 1983).

According to Hoy and Miskel (1991), later one person became responsible for other, more specialized personnel tasks such as selecting and assigned the needed personnel. One common practice was to delegated certain activities, such as compensation and personnel matters, to business administration. With the emergence of assistant superintendent positions, more personnel activities related to the professional teaching staff were assumed by these administrators. Building principals did perform personnel duties, but many were only part-time administrators and had teaching responsibilities as well.

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Administration and personnel practices historically have been influenced significantly by many individuals and administrative concepts, such as the movements in scientific management or classical organization, human relations, and behavioral sciences. Each of these developments and their contributions to personnel administration and human resource management (Saxe, 1980).

Scientific management principles had a major impact on the human resources function in business, industry, and education. This movement, which became extremely popular in the early 1900's, was exemplified in large part by the work of Fredrick W. Taylor and other strong advocates of scientific management methods. As chief engineer of a Pennsylvania Steel Company, Taylor had an opportunity to implement his management concepts in the industry (Hoy & Miskel, 1991).

His critical attention to worker efficiency and productivity earned him the title Father of Scientific Management. Today Taylor's method are considered by most as insensitive and authoritian. Yet his work, along with that of others who contributed to the scientific management concept, did much to focus attention on the important relationships between task achievement and human activity (McCoy & Gips, 1983).

Many of the concepts that evolved from this era continued to be foundational to many contemporary practices in personnel administration. Personnel development in education was also influenced by other scientific management proponents such as Henri Fayol, Luther Gulick, Lyndall Urwick and Max Weber.

As early as 1920, the scientific management approach was being brought into question by many in the field of administration. The scientific management philosophy, in the eyes of many viewed workers as machines, was by now considered inhumane by most standards and evoked the concern of a number of writers. Mary Parker Follett (1868-1933) was among the first to recognize the importance of human factors in an organization. She based her concepts on studies of managers at work. Follett set forth a philosophy opposing scientific management and felt that "organizations are people". In a series of papers an in her book, Creative Experience (1924), she emphasized the need to consider the human element and social ethnic in administration. She stressed that one of management's primary responsibilities was to establish positive working relationships with workers. She believed that her concepts of coordination were instrumental in refocusing methods of supervisory and personnel practices toward the goal of organizational harmony (Hoy & Miskel, 1991).

Elton Mayo and others were motivated by the Concepts of Follett. Mayo came to the United States in 1920's as an industrial researcher. As a member of the faculty at Harvard University, Mayo and his associates studies such personnel problems as turnover, working conditions, work incentives, employee motivation, and employee production. As early as 1923, he and other researchers investigated the working conditions of a textile plant in Philadelphia. Descriptions of the working atmosphere revealed high levels of monotonous work that led to boredom and low production. Through an experimental plan of incentives and periodic rest times, employee turnover was virtually eliminated in the plant (Saxe, 1980).

The behavioral science movement also affected the development of personnel administration in education. According to the behavioral science viewpoint, an organization has a structural, or institutional, element and a human element that are always interacting. How these two elements related to and influence the human behavior needed to achieve organizational goals is of major interest to the behavioral scientist.

Chester Bernard is generally recognized as the first individual to relate administration to behavioral sciences. His work, The Functions of the Executive, is a classic in educational administration literature and many educators view it as the most important book ever published in the field of administration (McCoy & Gips, 1983)

Although Bernard's work was concerned with administration generally, its implications for personnel practices were inescapable. His concepts influenced human resources administration throughout the 1940's and continued to have an impact on contemporary practices.

Bernard was the president of the Bell Telephone Company and director of the New Relief Administration. During World War II, he organized and administered the United Service Organization. He believed that cooperation was essential for individuals in an organization. Because individuals have limited powers of choice due to circumstances and biological restrictions, cooperation is the most effective way of offsetting these limitations. Cooperation, then, necessitates a commitment to a group goal and requires personal interaction. In this way, individual behavior becomes subordinate to a nonpersonal goal and it accomplishment. An individual's degree of cooperation is dependent upon the level of satisfaction, realized, which is based on subjective personal judgments. Bernard maintained that the mere existence of an organizational purpose does not assure cooperation (Hoy & Miskel, 1991).

Acceptance of the organizational purpose by members is essential. Therefore, Bernard believed that an essential function of every executive is to instill acceptance of a common purpose in the minds of all organizational members.

Another essential function, as defined by Hoy and Miskel (1991) is communication: the linking of common purpose with members who are willing to cooperate. Such communication must consider both formal and informal organizational structures that influence members' attitudes and commitment. In brief, three principal tasks are required of each executive: (1) maintenance of communication in the organization, (2) obtainment of necessary performances from organizational members, and (3) formulation of organizational purpose and objectives.

Bernard's concepts of effectiveness and efficiency continue to influence human resources practices. Effectiveness is the extent to which organizational goals are met and realized Efficiency, then, is the extent to which a cooperative system remains viable through its satisfaction of individual desires and interests. Numerous other investigators supported the behavioral science movement initiated by Bernard, including Frederick Herzberg. Herzberg utilized in-dept interviews of engineers and accountants to determine what factors actually were associated with job satisfaction and dissatisfaction. Factors that appeared in the positive attitudes, those associated with job satisfaction, Herzberg maintained that the first five factors were the most important in increasing job satisfaction. These five factors also were closely related in that, in contrast with the other factors they focused on the job itself, the job responsibilities and job advancement.

Therefore, Herzberg called these factors motivators. Each factor is related to the environment in which the job takes place: these factors surrounding the job itself. Thus these factors were termed hygienes (Saxe, 1980).

Due to education's inextricable tie to societal development, issues of society bear directly upon education and administration personnel or human resource practice. The issues facing the human resources function pose difficult challenges for school administrators. There is little doubt that the matter of administrators appraisal systems will continue to be a primary issue in education in the future. Although the problem related to administrator's appraisal are difficult and complex, school administrators must assume a leadership role in the determination of better solutions to problems in this area (Popham, 1988).

The establishment of performance appraisal as a school district priority is critical if the evaluation system is to make a meaningful contribution to the improvement of the district and individual employees. If the evaluation system does not have the strong support of the school board and the administration, evaluation will be superficial at best (Stronge, 1991).

One of the ways the school district can demonstrate its commitment to the evaluation system is through the policies it adopts to govern and direct the evaluation system. A strong policy demonstrates both the board's philosophical position regarding evaluation and its importance to the organization. The board's philosophical postion regarding evaluation and its importance to the organization and the board's commitment to the evaluation process. Additional policies that clearly articulate the purposes and procedures to be followed in the evaluation of all employees and that emphasize administrative responsibility and accountat ity for the effectiveness of the system further demonstrate the importance place on evaluation (popham, 1988).

As indicated by (Stronge, 1991), determining the purpose of the district's evaluation system before it is implemented and continuing to communicate these purposes to affected individuals is paramount to defining evaluation. Evaluation systems that lack clearly articulated purpose are essentially meaningless and contribute little to the accomplishment of the district's goals. One approach to clarifying the purposes of evaluation is to distinguish the types of evaluation and then match the most appropriate use of these various types to the purpose of evaluation.

There are four basic types of evaluations: summative, formative, norm referenced and criterion referenced. Summative evaluation is an evaluation that is conducted at the end of an activity or period of time and is designed to asses terminal behaviors or overall performance. The summative evaluation is used to make personnel decisions regarding such matters as contract renewal, tenure, merit pay, assignment to levels of a career ladder, and termination. The summative evaluation has as its primary function the determiunation of a teacher's competence not the augmentation of that competence" (Popham, 1988).

According to Sperry, Pounder, & Drew (1992), the summative evaluation is formal, somewhat infrequent and focuses only on the person being evaluated. The individual being evaluated is normally not as involved in the summative evaluation process as in the formative process, and in many cases may only be informed of the results of decision. Unlike summative evaluation, which is a terminal activity, formative evaluations is an ongoing evaluation designed to provide feedback to the person being evaluated for the purposes of self-improvement. The decision riding on formative evaluation involve a host of choices focused on "How can I do better?".

Formative evaluations is only quasi-formal, intimately involves the person being evaluated and because it's purpose is the improvement of performance, it may have several facets relative to the employee's work in the context of the operation of the school district (Sperry et, al., 1982).

In spite of the fact that summative and formative evaluations have different purposes, most school districts in the United States attempt to combine the two functions so they can be carried out simultaneously, which according to many experts is a mistake. Because nobody wants to get fired or not receive a promotion, merit pay, or other commendation,for the weakest employees are least likely to identify their own weaknesses. Thus, many experts agree that given the limited impact of summative evaluation, the attention and limited resources allocated to evaluation should be focused on summative evaluation that will impact on a larger number of employees and have greater potential of bringing improvement districtwide (Popham, 1988).

Although not as commonly found, according to Sperry (1992), two additional types of evaluation may be used in the evaluation of personnel in education. Norm-referenced evaluation is an evaluation that compares the individual's performance with that of other employees or with the average of a larger group.

In contrast, criterion-referenced evaluation compares the employee's performance not to any other person(s) but to an established standard.

Each type of evaluation is used for different evaluation purposes. The stated and actual purposes of evaluation meet a variety of evaluation ends. The three purposes of principal evaluation are to: (1) assist in annual evaluation decisions regarding district-level employment and professional improvement, (2) provide data relevant to the assessment of administrative abilities or potential and principal selection, and (3) promotion and (4) retention, contract renewal, or termination (Stronge, 1991).

One of the most important and sometimes difficult jobs of the school administrator is the evaluation of personnel. Although evaluation can provide the opportunity for professional growth and school improvement, unless properly conducted it can also become a source of controversy and low morale. It is imperative that the school district demonstrate its commitment to a sound evaluation system through clearly articulated and publicized board policies and by the adoption of an evaluation system that is technically sound and ensures substantive and procedural due process.

Thus, systems may employ multiple data collection techniques and serve a number of personnel purposes. The evaluation system should not attempt to combine the summative and formative evaluation functions (Popham, 1988).

One of the most difficult processes of the personnel administration/human resources function is compensation administration. Compensation decisions have significant consequences for both the school district and its employees. Between 80% and 90% of the current operating budget of a typical school district is allocated to personnel salaries, wages, and benefits. Compensation affects the district's ability to attract, motivate and retain qualified employees. Compensation is a major factor in employee morale. The employees' status and recognition in society and in the school system as well as their economic welfare, are linked to their compensation (Castetter, 1992).

A number of factors directly or indirectly determines the compensation program established by the district, including (1) supply and demand, (2) ability to pay, (3) cost of living, (4) prevailing wages rates, (5) collective bargaining, and (6) government regulations. Although the effect of each factor may be difficult to determine precisely, each must be considered as a part of collective force that is referred to as the wages mix.

The economic concept of supply and demand states that price paid for any good or service is a function of the supply of and demand for the good or service. The demand for teachers, although in large part determined by the number of students to be served, is also a function of nonmarket considerations. The state legislature, the state department of education, and local school boards can greatly influence both the supply and the demand for teachers and other education professionals through such actions as the establishment of certification and accrediation standards, the decision to offer certain types of programs, or the offering of retirement incentives (Educational Research Service, 1991).

The supply of teachers is composed of two groups: continuing teachers and new entrants. New entrants include not only new teacher graduate but those who secured teaching degrees who never entered teaching. Those re-entering teaching after some break in service and noneducation graduates entering the teaching profession through alternative certification routes.

The demand projections are based on the assumptions that the total k-12 enrollment will increase, that teacher-pupil ratios will continue to remain between 5% and 6%. The projected demand for hiring new teachers is expected to exceed 200,000 annually. Demand for both elementary and secondary teachers is expected to decline into the mid 1990, before rising and ending the decade with an increase in demand of 10,000 per year (U.S. Department of Education, 1992).

According to Castetter (1992), fundamental determinant of school district compensation is the district's financial ability and willingness to pay. Differences in teachers' salaries among school districts can largely be explained by variations in local fiscal capacity and community willingness to tax and spend for education.

Whereas a district has little control over its base, unless there are statutory tax or expenditure limitations to the contrary, it does have control over the effort it makes to support education. In fact, in the process of collective bargaining, unions have often justified their demands for increases in compensation or have been awarded increases by arbitrators because the district's tax rate was substantially below that of other neighbors or below the state average (Educational Research Service (1991).

The standard most often used for determining salary increases is the cost-of-living index. According to the United States Department of Education (1992), the cost-of-living index is a measure of the average changes in the cost of goods purchased by consumers against the cost during some base period.

Salary adjustments based on the cost-of-living index do not reflect judgments about the economic value of persons holding positions or their performance. Rather, they reflect the sentiment that unless personnel compensation keeps pace with the cost of living, the resulting decline in purchasing power has the same effect as a salary cut. As, a result the cost-of-living clause is commonly included in bargaining agreements.

The second most important determinant of current wage increases is the comparability of current rates of pay with those of neighboring school districts (Beebe, 1983). It would be difficult for a school district to attract and retain competent personnel if its compensation levels were significantly below those paid by other school districts or other potential employers in the community. Data pertaining to top prevailing wage rates may be obtained from state and national departments of labor, from survey's conducted by the school district personnel department and from data supplied by employee organizations. It is common practice for employee groups to gather such data supplied by the union need not be doubted because of the possibility of selectivity in collection, good practice dictates that the human resources office should assume some responsibility for the systematic collection of wage and salary data.

The data collected should include not only direct compensation but because of its impact on the attractiveness and value of the total compensation package, indirect compensation (Educational Research Service, 1991).

As noted by Castetter (1992), if school district employees are unionized, wages and other conditions of employment may be greatly determined through the process of collective bargaining. In the negotiations process, both the union and the district will focus on those factors that support their bargaining positions such as, supply and demand, ability to pay, cost-of-living and prevailing wage rates. As a result, wages and salaries are generally higher in areas where employee organizations are strong.

One of the more important trends that has emerged as a result of the school reform movement has been more active involvement of state legislature in teacher compensation. Teacher compensation has been a policy area that has historically been considered the domain of local school districts. Public officials wanting to improve teaching conditions came to recognize teacher pay as a critical policy variable. In an increasing number of states, now at least thirty, state minimum salaries have been established (U.S. Department of Education, 1991).

The single salary schedule pays equivalent salaries for equivalent preparation and experience. The single salary schedule is based on a set of assumptions that are the exact opposite of those underlying the position salary plan. The single salary schedule has long been popular with boards of education because it is easy to understand and administer and allows for a rather simple budgeting process for salaries. The single salary schedule has two basic dimensions: a horizontal dimension made up of columns generally refereed to as lanes, scales, or classes, which correspond to levels of academic preparation and a vertical dimension of rows of steps that correspond to the years of teaching experience (Rebore, 1991).

The educational reform movement has brought school districts across the country under increased pressure to attract and retain good teachers, motivate them to greater performance, and reward them for outstanding performance. Teacher incentive plans are perceived as one strategy to achieve these goals. Some form of teacher incentive plan now exist in twenty-five states. Although merit pay is often considered synonymous with incentive pay, the concepts are different. Merit pay is differential pay awarded to individuals with the same job description on the basis of higher levels of performance. The concept of incentive pay, on the other hand, includes not only merit pay but various other proposals that in effect pay teachers more for different work or additional work such as a masters teacher plan or career ladder plans (Castetter, 1992).

(17)

Merit pay for teachers is not a new concept. Before the widespread adoption of the single salary schedule in the 1920s, many district salary plans were based on or had a "merit" component. The use of merit pay decreased throughout the 1930's and 1940's and continued to decline so that by the 1977-78 school year, only 4% of the school systems reported using merit pay. However, beginning in the early 1980's a growing number of states and local school districts began experimenting with merit pay plans (Rebore, 1992)

A major controversy surrounding merit pay is whether it can motivate teachers to improve teaching. The research seems to clearly indicate, and teachers consistently agree, that intrinsic psychological and symbolic rewards rather than extrinsic material rewards like money are the prime motivators of teachers. Even if teachers were motivated by money, opponents of merit pay argue that paying a small percentage of teachers a merit supplement and one that is usually small provides a token not an incentive. Other plans such as educational productivity plans, differentiated staffing and master teacher plans, career ladder, and market sensitive salaries (Castetter, 1992).

According to Gurdsky (1992), indirect compensation is the "in kind payments employees receive in addition to payments in the form of money". In the past benefits were supplemental to the paycheck and of minor value so they were referred to as fringe benefits. (18)

Although the term is still used, it is misleading because these benefits are no longer a minor item. The cost of indirect compensation in the United States increased from approximately 3% of wages and salaries in 1929 to 36% in 1992 (Gurdsky, 1992).

The federal and state governments have enacted laws to protect the welfare of employees. At the federal level the Social Security Act of 1935, established the Old-Age, Survivors, Disability and Health Insurance System. The system is financed by contributions by the employee and a matching contributions by the employer. Under the social security system totally and permanently disabled persons may be eligible for disability payment, and retirement income is provided to workers retiring at the age of 62 or insurance benefits to those working until age 65. The actual amount the employee receives is based on the number of years worked, average earnings, and number of dependents at the time benefits begin. The Social Security Act provides health care services (Medicare) to those 65 and older and benefits to eligible survivors of deceased workers. Only about 57% of school district include teachers and administrators in the social security program because they are usually included in the state retirement system. More often the social security program covers classified employees (Rebore, 1991).

The Social Security act also requires states to provide unemployment benefits received are normally a function of employee's previous wage and length of service. The cost of this program are paid by the employer.

All states also provide retirement benefits plans for public school professional employees. The vast majority of these employees (97%) are covered by state retirement systems, whereas only about 4% are covered by local retirement systems (some individuals are in both state and local systems). Of the statewide systems, approximately 72% are teachers' systems and the remainder are operated for teachers and other public employees (Educational Research Service, 1991).

State retirement systems vary regarding the service used to compute a member's retirement benefits. They also vary on other provisions such as vesting rights, age requirements, disability benefits, provisions for borrowing, postretirement adjustments, work restrictions after retirement, and administration. Although administrators should be familiar with the provisions and restrictions of the state or local retirement plan, they must be cautious about rendering specific advice to employees. That task is more properly the job of the department of education.

Ninety-eight percent of all districts provide group hospitalization insurance for teachers. Although job-related accident and injury are compensable under state worker's compensation laws, most illness experienced by school employees is not job related and therefore, is a cause of financial strain on the employee. For this reason various forms of health and accident insurance are provided for school employees, some that are completely financed by the district and others are shared with the employee. (Educational Research Services, 1991). The principal types of health and hospitalization insurance found in school district compensation programs are: group hospitalization, medical/surgical, major medical, dental, vision care, and prescription drugs.

Listed on the next several pages are benefits offered by most school district across the United States and a brief description of the benefit(s).

Health Maintenance Organizations (HMOs)- The Health Maintenance Organization Act of 1973 requires employers covered by fair Labor Standard Act to offer an HMO as an alternative to health insurance if a federally qualified HMO is available in the community. HMOs provide comprehensive health care to members for a fixed monthly fee on a prepaid services basis.

Group Life Insurance- Life insurance is the oldest form of employer-sponsored benefit. The group plan permits the district and the employee to benefit from lower rates. Most group life plans include all employees regardless of physical condition and provide for conversion to an identical policy without physical examination if the individual leaves the district.

Long Term Disability Insurance- Provides income continuation payments to employees unable to work because of health related problems.

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Severance Pay- Severance pay normally is a one-time payment to an individual upon serving his or her employement with the district. This severance can occur at retirement or at an earlier point in the employee's career. The size of the payment is often based upon length of service before separation.

Tax-Sheltered Annunity Plans- This plan allows school personnel to invest part of their salaries in annuties that are not taxed as current salary. The payment of the annunity is made before any computation of taxes owed. Thus, income tax payments are reduced at the same time an investiment is being accumulated.

Professional Liability insurance- Lawsuits alleging misfeasance, malfeasance, nonfeasance and malpractice are increasingly being filed against school district and their employees. Professional liability coverage protect and insure teachers.

Pay for time not worked- The most common time-off-with-pay provisions for public school personnel are sick leaves, personal/emergency leaves, vacations leaves, sabbatical leaves, religious leaves, family and bereavement leaves, civic and jury leaves, professional leaves and military leaves.

Sick Leave- Virtually all school districts provide employees paid sick leave. Included under this category are leaves for family illness and death in the immediate family.

Personal/Emergency Leave- School districts recognize that employees will from time to time, need to take leave for a variety of personal or emergency reasons. The mean number of days allowed per year was 4 days. In about 40% of districts time taken as personal/emergency leave is charged against sick leave.

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Sabbatical Leave- A leave for professional study and research. The most common time period granted, where leave is provided are 6 months and 2 semesters.

Religious Leave- Leave for religious holidays not observed in the school calendar is granted by most school systems. Most districts charge such days to the teacher's or administrator's personal leave bank.

Civic and Jury Duty Leaves- Provided by school districts for employees to serve on jury duty and various civic duties and functions.

Professional Leave- Professional leave is granted to teachers and administrators in almost all school districts. Professional leave may be granted for a number of reasons, including (1) professional study, (2) attendance at professional mettings, (3) exchange teaching, (4) professional organization service, (5) visits to other schools, (6) teaching in a Department of Defense school, (7) research, (8) travel, and (9) work experience (Rebore, 1991).

Military Leave- As with leaves for civic and jury service, school districts are particularly sensitive to the public duties and responsibilities of its employees.

Credit Unions- Credit unions have been established by employees in many large school districts and by a cooperative arrangement of employees of several smaller districts to serve the financial needs of the employees.

Tuition Reimbursement- This benefit provides employees with as many educational opportunities as possible while upgrading the knowledge and skills of the district work force.

Employee Assistance Program- Employee assistance programs represent one attempt by employers to lower the risk factors associated with mental and physical health problems of employers.

Payment of Meeting and Convention Expenses- Attendance at professional meetings and conventions is a means of professional renewal and development.

Payment of Organization Dues- A major function of professional organizations is educational and such provides benefits both to the employee and the district.

Transportation Allowance- School district employees who use their own vehicles while performing school district business may received a transportation allowance or mileage reimbursement.

Wellness Programs- The health of its employee is of obvious concern to the district. Most district require a preemployment physical. Some pay for periodic physical examinations

Subsidized Food Service- Most school districts operate a food service program that not only is nonprofit but is subsidized by both local and federal contributions. As a result, an adult meal purchased in the school cafeteria cost far less than a comparable meal purchased at a commercial establishment.

Child Care Services- The growing demand for child care has led many districts to add this service to their employee compensation program. Such services may be provided through a child care center operated by the district that enrolls children of both employees and students.

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Through compensation programs the school districts aims to attract and retain competent personnel, motivate them toward optimum performance, create incentives for continued growth, and maintain control of budgetary expenditures. These goals can be accomplished only if the district and the human resources administrator in particular, recognizes and implements a compensation program that is well planned, internally fair and equitable and externally competitive.

Possibly the most undesirable task of a school administrator and or school board is the dismissal of an employee. The impact on the employee's personal and professional life can be devastating. Lengthy proceeding may become costly both to the employee and the district. In controversial cases morale and relationship between staff, administration, and school board may be negatively affected. Nonetheless, from time to time it seems in the best interest of the school district to dismiss an employee. All states have some statuory provisions regarding teacher dismissal. The reasons specified for dismissal vary from the very general to the very specific. The reasons most frequently cited in statute are immorality, incompetence, and insubordination. Other commonly cited reasons are neglect of duty, unprofessional conduct or conduct unbecoming a teacher, unfitness to teach, and the catchall phrase, "other good and just cause" (Beckham, 1983).

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Although traditionally the courts have left the application and definition of each of these reasons to the discretion of the school board, a brief overview of the three most frequently cited concepts will help provide some insight into those conditions or behaviors that have sustained judicial scrutiny, as well as the judicial requirement involved to support a charge.

According to Delon (1982), in thirty-eight states, school boards are authorized to dismissed teachers on the basis of immorality and or moral turpitude. Immorality may also be considered under the dismissal for "good and just cause" provided in the other twelve states. Immorality is the most cited ground for dismissal but legislatures often have been reluctant to define the term immorality or discuss its application to specific conduct.

According to Casico (1987), dismissals related to immorality generally are based on one or more of the following categories of conduct: (1) sexual conduct with students,(2) sexual conduct with nonstudents, (3) homosexuality, (4) making sexually explicit remarks or talking about sex unrelated to the curriculum, (5) distribution of sexually explicit material to classes, (6) use of obscence, profane, or abusive language, (7) possession and use of controlled substances, (8) other criminal misconduct and (9) dishonesty. Whereas this listing covers a wide range of behaviors, certain standards have evolved from the cases in this area and are generally applied to other cases.

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Employees in a number of cases have alleged that their dismissal for alleged immoral conduct infringed upon their constitutional right of privacy. Generally this defense has not been successful if the exercise of this freedom impacts on students. Most cases where such a defense has been successful have involved cohabitation, pregnant unwed employees, or when the school district's evidence consisted primarily of rumor and speculation. In cases involving alleged immoral conduct the courts will attempt to balance the employee's personal freedom against the interest of the school board in maintaining a proper educational environment (Delon, 1982).

As noted by Cascio (1987), incompetence is another common ground for the dismissal of teachers and administrators. Thirty-nine states cite incompetence and or inefficiency as grounds for dismissal. Those conditions or behaviors that have been most successfully sustained as constituting incompetence fall into five general categories: (1) inadequate teaching methodology, (2) lack of knowledge of the subject matter, (3) failure to maintain classroom discipline, (4) physical or mental disability, and (5) willful neglect of duty. As previously stated, substantial evidence must be presented to justify the charge.

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Although testimony of students and parents is important, the courts pay close attention to classroom observations by superior such as principals, curriculum supervisors, and others.

In dismissal for incompetence the courts require that the standard against which the teacher is measure be one used for other teachers in a similar position, not the standard of the "ideal teacher," and that the dismissal be based on a pattern of behavior not just a single incident. Additionally, as determination should be made as to whether or not the behavior in question is remediable, a notice of deficiency must be given and a reasonable opportunity to correct the behavior must be provided (Alexander & Alexander, 1992).

Insubordination is listed as a cause for dismissal in twenty-one states. A related clause or refusal to obey school board policy is listed as a separate cause in twenty states. Regardless of whether or not it is specified in statute, insubordination is an acceptable cause for dismissal in all states (Delon, 1982).

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According to Beckham (1983), among the meanings of insubordination that have been upheld by the courts are (1) refusal to follow established policies and procedures, (2) refusal to obey the direct and lawful orders of school administrators or school boards, (3) unwillingness to cooperate with superiors, (4) unauthorized absence from duty, (5) inappropriate use of corporal punishment, and (6) refusal to accept a school or class assignment.

Unlike the charge of immorality, the school district is not required to show relationship between the alleged insubordinate conduct and the teacher's fitness to teach. In order to sustain a charge of insubordination the school district must demonstrate a persistent, willful, and deliberate violation of a lawful rule or order emanating from a school authority. If the violation involves an order that is not within the legal right of the school official or school board issue, the dismissal for insubordination will not stand. In addition, the rule or order must be reasonable, clear, and unambiguous. After taking all of the following steps into consideration due process must still be rendered to the teacher.

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The term due process is found in the fourteenth Amendment of the U.S. Constitution, which provides that no state shall "deprive any person life, liberty, or property without due process of Law." The two aspects of due process are procedural, which guarantees fair procedures, and substantive, which protects a person's liberty or property from unfair government seizure or interference. The essence of due process is to protect against arbitrary and unreasonable action (Cascio, 1987).

Procedural due process is not an absolute right. An indivdiual is entitled to procedural due process only if he or she show that the government's actions denied "life, liberty, or property." Presuming that life issues are not involved in school districts personnel issues, the employee must show a property or liberty interest in order to be constitutionally entitled to procedural due process. In determining what due process should be provided in those cases not covered by statute, the courts have noted that no fixed set of procedures is applicable in all situations. Rather, due process entails balancing the individual and governmental interests involved in each situation (Beckham, 1983).

According to Alexander (1992) generally the courts have held that an employee facing a severe loss, such as termination of employment must be ensured the following procedural elements:

1. Notification of charges.
2. Opportunity for a hearing.
3. Adequate time to prepare a rebuttal charge.
4. Access to evidence and names of witnesses.
5. Hearing before an impartial tribunal.
6. Presentation by legal counsel
7. Opportunity to present evidence and witnesses.
8. Opportunity to cross-examine adverse witnesses.
9. Decision based on the evidence and findings of the hearing.
10. Transcript or record of the hearing
11. Opportunity to appeal an adverse decision. (pp.310-311).

Notice must not merely be given; it must be timely and sufficiently specific to enable the employee to attempt to remediate or to prepare an adequate defense. Although a full evidentiary hearing conforming to all the rules of procedure and evidence is not required, the Supreme Court has ruled that if termination of an employee with property rights is a consideration, a hearing is required to termination where the employee is given oral and written notice of the charges, an explanation of the school board's evidence and an opportunity to respond orally and in writing to the charges and evidence.The purpose of such a hearing is to determine if there are reasonable grounds to believe the charges against the employee are true and support dismissal. Although the ability of the school board to act as an unbaised hearing body when it is a party to the action has been frequently challenged, most courts have upheld this procedure (Cascio, 1982).

Substantive due process is somewhat more difficult to ensure that procedural due process. Substantive due process is meant to protect the employee from arbitrary, unreasonable and discriminatory governmental action as well as vague and unclear policies and guidelines. Substantive due process is often equated with the concept of "just cause." Substantive due process also means the school officials cannot deprive an employee of "life, Liberty, or property" Unless to do so is necessary to accomplish a legitimate state objective. The provision of substantive due process requires a rational balance of individual and government interest. The Supreme Court has not articulated precise guidelines for property balancing, these interests; rather the guidelines are constantly being refined by the courts and decisions are made on a case by case basis (Alexander & Alexander, 1992).

Although the specific laws related to personnel administration vary somewhat from state to state, the basic legal concepts, especially those designed to protect individual rights and ensure fairness and reasonable are common to all jurisdictions. A failure by the school district to adhere to these concepts leaves it vulnerable to a charge of arbitrary and capricious conduct (Delon, 1982).

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